



General Assembly

***Substitute Bill No. 6171***

*January Session, 2003*

***AN ACT CONCERNING FLOODPLAIN MANAGEMENT AND HAZARD MITIGATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2003*) (a) As used in this  
2       section, "floodplain" means that area of a municipality located within  
3       the real or theoretical limits of the base flood or base flood for a critical  
4       activity, as determined by the municipality or the Federal Emergency  
5       Management Agency in its flood insurance study or flood insurance  
6       rate map for the municipality prepared pursuant to the National Flood  
7       Insurance Program, 44 CFR Part 59 et seq.

8       (b) Whenever a municipality, pursuant to the National Flood  
9       Insurance Program, 44 CFR Part 59 et seq., is required to revise its  
10      zoning regulations or any other ordinances regulating a proposed  
11      building, structure, development or use located in a floodplain, the  
12      revision shall provide for restrictions for flood storage and conveyance  
13      of water for floodplains that are not tidally influenced as follows:

14      (1) Within a designated floodplain, encroachments resulting from  
15      fill, new construction or substantial improvements, as defined in 44  
16      CFR Part 59.1, involving an increase in footprint to the structure shall  
17      be prohibited unless the applicant provides to the zoning commission  
18      certification by a registered professional engineer that such  
19      encroachment shall not result in any increase in base flood elevation;

20 (2) The water holding capacity of the floodplain shall not be reduced  
21 by any form of development unless such reduction (A) is compensated  
22 for by deepening or widening the floodplain, (B) is on-site, unless  
23 adjacent property owners grant easements or the municipality in  
24 which the development is located authorizes off-site reduction, (C) is  
25 within the same hydraulic reach and a volume not previously used for  
26 flood storage, (D) is hydraulically comparable and incrementally equal  
27 to the theoretical volume of flood water at each elevation, up to and  
28 including the hundred year flood elevation, which would be displaced  
29 by the proposed project, and (E) has an unrestricted hydraulic  
30 connection to the same waterway or water body; and

31 (3) Work within adjacent land subject to flooding, including work to  
32 provide compensatory storage, shall not restrict flows resulting in  
33 increased flood stage or velocity. Any compensatory storage may be  
34 provided off-site if authorized by the municipality.

35 (c) Notwithstanding the provisions of subsection (b) of this section,  
36 a municipality may adopt more stringent restrictions for flood storage  
37 and conveyance of water for floodplains that are not tidally influenced.

38 Sec. 2. Section 16a-27 of the general statutes is repealed and the  
39 following is substituted in lieu thereof (*Effective October 1, 2003*):

40 (a) The secretary, after consultation with all appropriate state,  
41 regional and local agencies and other appropriate persons shall prior  
42 to March 1, 2003, complete a revision of the existing plan and enlarge it  
43 to include, but not be limited to, policies relating to transportation,  
44 energy and air. Any revision made after May 15, 1991, shall identify  
45 the major transportation proposals, including proposals for mass  
46 transit, contained in the master transportation plan prepared pursuant  
47 to section 13b-15. Any revision made after July 1, 1995, shall take into  
48 consideration the conservation and development of greenways that  
49 have been designated by municipalities and shall recommend that  
50 state agencies coordinate their efforts to support the development of a  
51 state-wide greenways system. The Commissioner of Environmental

52 Protection shall identify state-owned land for inclusion in the plan as  
53 potential components of a state greenways system. Any revision made  
54 after March 1, 2005, shall (1) take into consideration risks associated  
55 with natural hazards, including, but not limited to, flooding, high  
56 winds and wildfires; (2) identify the potential impacts of natural  
57 hazards on infrastructure and property; and (3) make  
58 recommendations for the siting of future infrastructure and property  
59 development to minimize the use of areas prone to natural hazards,  
60 including, but not limited to, flooding, high winds and wildfires.

61 (b) Thereafter on or before March first in each revision year the  
62 secretary shall complete a revision of the plan of conservation and  
63 development.

64 Sec. 3. Subdivision (4) of subsection (a) of section 7-536 of the  
65 general statutes is repealed and the following is substituted in lieu  
66 thereof (*Effective October 1, 2003*):

67 (4) "Local capital improvement project" means a municipal capital  
68 expenditure project for any of the following purposes: (A) Road  
69 construction, renovation, repair or resurfacing, (B) sidewalk and  
70 pavement improvements, (C) construction, renovation, enlargement or  
71 repair of sewage treatment plants and sanitary or storm, water or  
72 sewer lines, including separation of lines, (D) public building  
73 construction other than schools, including renovation, repair, code  
74 compliance, energy conservation and fire safety projects, (E)  
75 construction, renovation, enlargement or repair of dams, bridges and  
76 flood control projects, (F) construction, renovation, enlargement or  
77 repair of water treatment or filtration plants and water mains, (G)  
78 construction, renovation or enlargement of solid waste facilities, (H)  
79 improvements to public parks, (I) the preparation and revision of local  
80 capital improvement plans projected for a period of not less than five  
81 years and so prepared as to show the general description, need and  
82 estimated cost of each individual capital improvement, (J)  
83 improvements to emergency communications systems, (K) public  
84 housing projects, including renovations and improvements and energy

85 conservation and the development of additional housing, (L)  
 86 renovations to or construction of veterans' memorial monuments, (M)  
 87 thermal imaging systems, (N) bulky waste and landfill projects, (O) the  
 88 preparation and revision of municipal plans of conservation and  
 89 development adopted pursuant to section 8-23, provided such plans  
 90 are endorsed by the legislative body of the municipality not more than  
 91 one hundred eighty days after adoption by the commission, [and] (P)  
 92 acquisition of automatic external defibrillators, and (Q) floodplain  
 93 management and hazard mitigation activities. "Local capital  
 94 improvement project" means only capital expenditures and includes  
 95 repairs incident to reconstruction and renovation but does not include  
 96 ordinary repairs and maintenance of an ongoing nature.

97 Sec. 4. (NEW) (*Effective October 1, 2003*) The Commissioner of  
 98 Environmental Protection shall develop guidelines to be used by  
 99 municipalities in revising ordinances restricting flood storage and  
 100 conveyance of water for floodplains that are not tidally influenced.  
 101 Such guidelines shall include, but not be limited to, a model ordinance  
 102 that may be used by municipalities to comply with the provisions of  
 103 section 1 of this act. The commissioner shall make the guidelines  
 104 available to the public.

105 Sec. 5. Subsection (d) of section 20-327b of the general statutes is  
 106 repealed and the following is substituted in lieu thereof (*Effective*  
 107 *October 1, 2003*):

108 (d) (1) The Commissioner of Consumer Protection, shall, by  
 109 regulations adopted in accordance with the provisions of chapter 54,  
 110 prescribe the form of the written residential disclosure report required  
 111 by this section and sections 20-327c to 20-327e, inclusive. The  
 112 regulations shall provide that the form include information concerning  
 113 municipal assessments, including, but not limited to, sewer or water  
 114 charges applicable to the property. Such information shall include: (i)  
 115 Whether such assessment is in effect and the amount of the  
 116 assessment; (ii) whether there is an assessment on the property that  
 117 has not been paid, and if so, the amount of the unpaid assessment; and

118 (iii) to the extent of the seller's knowledge, whether there is reason to  
119 believe that the municipality may impose an assessment in the future.

120 (2) Such form of the written residential disclosure report shall  
121 contain the following:

122 (A) A certification by the seller in the following form:

123 "To the extent of the seller's knowledge as a property owner, the  
124 seller acknowledges that the information contained above is true and  
125 accurate for those areas of the property listed. In the event a real estate  
126 broker or salesperson is utilized, the seller authorizes the brokers or  
127 salespersons to provide the above information to prospective buyers,  
128 selling agents or buyers' agents.

T1	.... (Date)	.... (Seller)
T2	.... (Date)	.... (Seller)"

129 (B) A certification by the buyer in the following form:

130 "The buyer is urged to carefully inspect the property and, if desired,  
131 to have the property inspected by an expert. The buyer understands  
132 that there are areas of the property for which the seller has no  
133 knowledge and that this disclosure statement does not encompass  
134 those areas. The buyer also acknowledges that the buyer has read and  
135 received a signed copy of this statement from the seller or seller's  
136 agent.

T3	.... (Date)	.... (Seller)
T4	.... (Date)	.... (Seller)"

137 (C) A statement concerning the responsibility of real estate brokers

138 in the following form:

139 "This report in no way relieves a real estate broker of the broker's  
140 obligation under the provisions of section 20-328-5a of the Regulations  
141 of Connecticut State Agencies to disclose any material facts. Failure to  
142 do so could result in punitive action taken against the broker, such as  
143 fines, suspension or revocation of license."

144 (D) A statement that any representations made by the seller on the  
145 written residential disclosure report shall not constitute a warranty to  
146 the buyer.

147 (E) A statement that the written residential disclosure report is not a  
148 substitute for inspections, tests and other methods of determining the  
149 physical condition of property.

150 (F) Information concerning environmental matters such as lead,  
151 radon, subsurface sewage disposal, flood hazards and such other  
152 topics as the Commissioner of Consumer Protection may determine  
153 would be of interest to a buyer.

154 (G) A statement that information concerning the residence address  
155 of a person convicted of a crime may be available from law  
156 enforcement agencies or the Department of Public Safety and that the  
157 Department of Public Safety maintains a site on the Internet listing  
158 information about the residence address of persons required to register  
159 under section 54-251, 54-252, 54-253 or 54-254, who have so registered.

160 Sec. 6. Section 22a-27j of the general statutes is repealed and the  
161 following is substituted in lieu thereof (*Effective July 1, 2003*):

162 (a) Any person, firm or corporation, other than a municipality,  
163 making an application for any approval required by chapters 124, 126,  
164 440 and 444 shall pay a fee of ten dollars, in addition to any other fee  
165 which may be required, to the municipal agency or legislative body  
166 which is authorized to approve the application. On and after July 1,  
167 2003, the fee shall be twenty dollars. Such municipal agency or

168 legislative body shall collect such fees, retaining [one dollar] two  
169 dollars of such fee for administrative costs, and shall pay the  
170 remainder of such fees quarterly to the Department of Environmental  
171 Protection and the receipts shall be deposited into an account of the  
172 State Treasurer and credited to the Environmental Quality Fund  
173 established pursuant to section 22a-27g. The portion of such fund  
174 attributable to the fees established by this section shall be used by the  
175 Department of Environmental Protection as follows: (1) Fifty per cent  
176 shall be used for the purpose of funding the environmental review  
177 teams program of the Bureau of Water Management within said  
178 department, the Council on Soil and Water Conservation established  
179 pursuant to section 22a-315 and the eight county soil and water  
180 conservation districts; and (2) fifty per cent shall be deposited into the  
181 hazard mitigation and floodplain management account established  
182 pursuant to section 7 of this act and used for grants under section 9 of  
183 this act.

184 (b) Not later than three months following the close of each fiscal  
185 year starting with fiscal year July 1, 2000, the Department of  
186 Environmental Protection shall identify those municipalities that are  
187 not in compliance with subsection (a) of this section for the previous  
188 fiscal year and shall provide the Office of Policy and Management with  
189 a list of such municipalities. The list shall be submitted annually and in  
190 such manner as the Office of Policy and Management may require. The  
191 Office of Policy and Management, when issuing the first payment from  
192 the Mashantucket Pequot and Mohegan Fund established pursuant to  
193 section 3-55i, in the fiscal year during which said list is received, shall  
194 reduce said payment to a municipality by [five hundred] one thousand  
195 dollars for each quarter of the preceding fiscal year that the  
196 municipality has not been in compliance with subsection (a) of this  
197 section to a maximum of [two] four thousand dollars in each fiscal  
198 year. The Office of Policy and Management shall certify to the State  
199 Comptroller the amount of any funds withheld under this subsection  
200 to be transferred to the Environmental Quality Fund for the uses set  
201 forth in subsection (a) of this section, and the State Comptroller shall

202 cause said amount to be transferred to such fund.

203       Sec. 7. (NEW) (*Effective July 1, 2003*) There is established an account  
204 to be known as the "hazard mitigation and floodplain management  
205 account". The hazard mitigation and floodplain management account  
206 shall be an account of the Environmental Quality Fund established  
207 under section 22a-27g of the general statutes. Notwithstanding any  
208 provision of the general statutes, any moneys required by law to be  
209 deposited in the account shall be deposited in the Environmental  
210 Quality Fund and credited to the hazard mitigation and floodplain  
211 management account. Any balance remaining in the account at the end  
212 of any fiscal year shall be carried forward in the account for the fiscal  
213 year next succeeding. The account shall be available to the  
214 Commissioner of Environmental Protection for the purposes of  
215 sections 8 to 12, inclusive, of this act.

216       Sec. 8. (NEW) (*Effective July 1, 2003*) As used in sections 9 to 12,  
217 inclusive, of this act:

218       (1) "Eligible applicant" means any municipality, regional planning  
219 agency organized under the provisions of chapter 127 of the general  
220 statutes, any regional council of elected officials organized under the  
221 provisions of chapter 50 of the general statutes, or any regional council  
222 of government organized under the provisions of sections 4-124i to 4-  
223 124p, inclusive, of the general statutes;

224       (2) "Hazard mitigation" means activities that include, but are not  
225 limited to, actions taken to reduce or eliminate long-term risk to  
226 human life, infrastructure and property resulting from natural hazards  
227 including, but not limited to, flooding, high winds and wildfires; and

228       (3) "Floodplain management" means activities that include, but are  
229 not limited to, actions taken to retain the existing capacity of  
230 designated floodplain areas to store and convey flood waters.

231       Sec. 9. (NEW) (*Effective July 1, 2003*) (a) The Commissioner of  
232 Environmental Protection shall establish and administer a hazard



233 mitigation and floodplain management grant program to reimburse  
234 eligible applicants for costs incurred in the reduction or elimination of  
235 long-term risks to human life, infrastructure and property from natural  
236 hazards, including, but not limited to, flooding, high winds and  
237 wildfires, and in the retention of present capacity of designated  
238 floodplain areas to store and convey flood waters. Each grant shall be  
239 in an amount equal to ninety per cent of the costs to be incurred for  
240 such activities. Application for a grant shall be made in writing to the  
241 commissioner in such form as the commissioner may prescribe and  
242 shall include a description of the purpose, objectives and budget of the  
243 activities to be funded by the grant. If the applicant is a municipality,  
244 the chief executive officer of the municipality applying for the grant  
245 may designate the town planner, director of public works, police chief,  
246 fire chief or emergency management director as the agent to make the  
247 application.

248 (b) The Commissioner of Environmental Protection shall establish,  
249 by regulations adopted in accordance with chapter 54 of the general  
250 statutes, relative priorities for the approval of grants under this section.  
251 Such priorities may take into account the differing needs of eligible  
252 applicants, the need for consistency and equity in the distribution of  
253 grant awards and the extent to which particular projects may advance  
254 the purposes of this section. The commissioner shall accord highest  
255 priority to projects which involve (1) the preparation or revision of  
256 hazard mitigation plans by municipalities, or (2) participation in the  
257 community rating system of the National Flood Insurance Program.  
258 The commissioner shall accord secondary priority to projects which  
259 involve (A) the execution of hazard mitigation projects by  
260 municipalities in accordance with approved hazard mitigation plans;  
261 or (B) administering and providing financial assistance for the hazard  
262 mitigation and floodplain management grant program established  
263 under this section. The commissioner may establish further criteria for  
264 the approval of grants under this section. Not later than February 1,  
265 2004, the commissioner shall develop and disseminate a pamphlet that  
266 describes the evaluation process for grant applications under this

267 section. In awarding grants under this section, the commissioner shall  
268 consult with any person the commissioner deems necessary.

269 (c) The commissioner shall authorize grant awards under this  
270 section on or before July thirty-first and December thirty-first of each  
271 fiscal year in which payment of a grant is to be made.

272 (d) The commissioner shall allocate not less than sixty per cent of  
273 the moneys in the hazard mitigation and floodplain management  
274 account in any fiscal year for grants under this section.

275 Sec. 10. (NEW) (*Effective October 1, 2003*) (a) On and after July 1,  
276 2004, the Commissioner of Environmental Protection shall make grants  
277 to municipalities under section 9 of this act, from funds in the hazard  
278 mitigation and floodplain management account, established under  
279 section 7 of this act.

280 (b) If the commissioner finds that any grant awarded pursuant to  
281 this section is being used for other purposes or to supplant a previous  
282 source of funds, the commissioner may require repayment.

283 Sec. 11. (NEW) (*Effective July 1, 2003*) (a) Recipients of grants under  
284 section 9 of this act shall submit a report to the Commissioner of  
285 Environmental Protection, in such form as the commissioner  
286 prescribes, not later than September first of the fiscal year following  
287 the fiscal year such grant was received. Such report shall contain a  
288 description of activities paid for with financial assistance under the  
289 grant. The chief executive officer of a municipality that receives a grant  
290 may designate the town planner, director of public works, police chief,  
291 fire chief or emergency management director of that municipality as  
292 the agent to make such report.

293 (b) On or before January 1, 2006, and annually thereafter, the  
294 Commissioner of Environmental Protection shall prepare a report on  
295 grants made under section 9 of this act for the preceding fiscal year.  
296 Each such report shall include: (1) A description of the grants made,  
297 including the amount, purposes and the municipalities to which they

300 Sec. 12. (NEW) (*Effective July 1, 2003*) The Commissioner of  
301 Environmental Protection shall adopt regulations, in accordance with  
302 the provisions of chapter 54 of the general statutes, to implement the  
303 provisions of sections 8 to 11, inclusive, of this act.

**PD**      *Joint Favorable C/R*      ENV